

HOUSE BILL 3656

By Stewart

AN ACT to amend Tennessee Code Annotated, Title 1;
Title 8 and Title 10, relative to the Uniform
Electronic Legal Material Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 1, is amended by adding the following
as a new chapter:

1-4-101. This chapter shall be known and may be cited as the "Uniform Electronic Legal
Material Act".

1-4-102. In this chapter:

(1) "Electronic" means relating to technology having electrical, digital, magnetic,
wireless, optical, electromagnetic, or similar capabilities;

(2) "Legal material" means, whether or not in effect:

- (A) The Constitution of Tennessee;
- (B) The public and private acts of this state;
- (C) The Tennessee Code Annotated; or
- (D) A state agency rule that has or had the effect of law;

(3) "Official publisher" means:

- (A) For the constitution of Tennessee, the secretary of state;
- (B) For the public and private acts of this state, the secretary of state;
- (C) For Tennessee Code Annotated, the Tennessee code commission;

or

(D) For a rule published in the Tennessee administrative register, the
secretary of state;

(4) “Publish” means to display, present, or release to the public, or cause to be displayed, presented, or released to the public, by the official publisher;

(5) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

(6) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

1-4-103. This chapter applies to all legal material in an electronic record that is designated as official under § 1-4-104 and first published electronically on or after the effective date of this chapter.

1-4-104.

(a) If an official publisher publishes legal material only in an electronic record, the publisher shall:

(1) Designate the electronic record as official; and

(2) Comply with §§ 1-4-105, 1-4-107 and 1-4-108.

(b) An official publisher that publishes legal material in an electronic record and also publishes the material in a record other than an electronic record may designate the electronic record as official if the publisher complies with §§ 1-4-105, 1-4-107 and 1-4-108.

1-4-105. An official publisher of legal material in an electronic record that is designated as official under § 1-4-104 shall authenticate the record. To authenticate an electronic record, the publisher shall provide a method for a user to determine that the record received by the user from the publisher is unaltered from the official record published by the publisher.

1-4-106.

(a) Legal material in an electronic record that is authenticated under § 1-4-105 is presumed to be an accurate copy of the legal material.

(b) If another state has adopted a law substantially similar to this chapter, legal material in an electronic record that is designated as official and authenticated by the official publisher in that state is presumed to be an accurate copy of the legal material.

(c) A party contesting the authentication of legal material in an electronic record authenticated under § 1-4-105 has the burden of proving by a preponderance of the evidence that the record is not authentic.

1-4-107.

(a) An official publisher of legal material in an electronic record that is or was designated as official under § 1-4-104 shall provide for the preservation and security of the record in an electronic form or a form that is not electronic.

(b) If legal material is preserved under subsection (a) in an electronic record, the official publisher shall:

- (1) Ensure the integrity of the record;
- (2) Provide for backup and disaster recovery of the record; and
- (3) Ensure the continuing usability of the material.

1-4-108. An official publisher of legal material in an electronic record that is required to be preserved under §1-4-107 shall ensure that the material is reasonably available for use by the public on a permanent basis.

1-4-109. In implementing this chapter, an official publisher of legal material in an electronic record shall consider:

- (1) Standards and practices of other jurisdictions;

(2) The most recent standards regarding authentication of, preservation and security of, and public access to, legal material in an electronic record and other electronic records, as promulgated by national standard-setting bodies;

(3) The needs of users of legal material in an electronic record;

(4) The views of governmental officials and entities and other interested persons; and

(5) To the extent practicable, methods and technologies for the authentication of, preservation and security of, and public access to, legal material which are compatible with the methods and technologies used by other official publishers in this state and in other states that have adopted a law substantially similar to this chapter.

1-4-110. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

1-4-111. This chapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

SECTION 2. This act shall take effect January 1, 2013, the public welfare requiring it.